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VIA HAND DELIVERY

August 14, 2003

EX PARTE

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, D.C. 20554

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AUG 14 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Oral *Ex Parte* Presentation – CC Docket No. 02-33

Dear Ms. Dortch:

On August 13, 2003, Steven Teplitz, Vice President and Associate General Counsel, AOL Time Warner Inc. ("AOL") and the undersigned, of Lampert & O'Connor, P.C., on behalf of AOL, met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, regarding the above-referenced proceeding.

In the meeting, we discussed AOL's previously filed position. In particular, we noted that any Title I reclassification of wireline broadband telecommunications services would be subject to significant legal challenge and uncertainty. We stressed that hundreds of Internet Service Providers rely upon the continuing availability of a Title II framework and that any transition to a different regime should ensure that there are adequate and effective safeguards to deter and prevent anticompetitive conduct, including price and service quality discrimination. We further stated that a shift to Title I could undermine the FCC's enforcement process and urged the Commission to act so as to minimize legal and regulatory uncertainty, which would further chill information service deployment, innovation and investment.

Pursuant to Section 1.1206(b) of the Commission's rules, two copies of this letter are being provided to you for inclusion in the public record of the above-captioned proceeding. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Donna N. Lampert  
Counsel for AOL Time Warner Inc.

cc: Matthew Brill

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